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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,918	07/03/2000	Goran E. Enhorning	ENG901US	3605

7590 09/26/2003

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EXAMINER

CROSS, LATOYA I

ART UNIT PAPER NUMBER

1743

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/609,918

Applicant(s)

ENHORNING, GORAN E.

Examiner

LaToya I. Cross

Art Unit

1743

-- Th MAILING DATE of this communication appears on th cov r sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to Applicants' amendment filed on July 11, 2003 and entered as Paper No. 14. Claims 1-6 and 8 are pending. Claims 6 and 8 are withdrawn from consideration as being directed to non-elected subject matter.

Withdrawal of Rejections from Previous Office Action

- All rejections from the previous Office Action are withdrawn in view of Applicants' amendment to denote that the pipette tip has a uniform diameter throughout its length.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marteau d'Autry (4,362,063) in view of Treptow (5,844,686) as taught by Dunipace (3,608,146).

Marteau d'Autry teaches a pipette for sampling and dispensing volumes of liquid sample. The pipette of Marteau d'Autry contains a capillary tube (24) adapted to be fitted with a funnel shaped female member of a suction sampling device. The capillary tube has a uniform diameter throughout its length. See figure 1. The capillary tube has a slidably fitted piston (14) within it. A control rod (20) controls the movement of the piston within the tube. The capillary tube is equivalent to Applicants' piston cylinder. The piston is in the form of a stainless steel wire. The pipette having a tube capable of fitting a piston and a control means allows the pipette to be of shorter length and thus, provides easier handling by users and allows easier accommodation when used with automatic devices.

Marteau d'Autry differs from the instant invention in that the capillary tube of Marteau d'Autry is made of glass, whereas the capillary tube of the instant invention is plastic.

Treptow et al disclose a pipette apparatus. The pipette apparatus comprises a piston (suction) portion and a pipette tip portion as recited in claim 1. The piston portion controls the draw of liquid up into pipette tip or the releasing of the liquid (col. 2, lines 47-55). The pipette tip serves to absorb the liquid. At col. 2, lines 33-36 and col. 3, lines 16-20, Treptow et al teach that the pipette tip is made of plastic material. Treptow et al further teach that in using plastic materials for the pipette tip, the pipette tip may be made for single use (i.e. disposable) and the pipette tip may be manufactured for very low costs.

With respect to the plastic material being extruded plastic material, Dunipace teaches a method for forming plastic pipettes. The method uses an extrusion process to transform plastic into disposable pipettes. Dunipace teaches that the extrusion method results in plastic pipettes having uniform dimensions.

It would have been obvious to one of ordinary skill in the art to use a plastic materials to form the pipette tip of Marteau d'Autry instead glass to make the pipette tip inexpensive to manufacture and also make the tip disposable. Further, it would have been obvious to one of ordinary skill in the art to use extruded plastic material in making the pipettes of Marteau d'Autry to allow the pipettes to have uniformity.

Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be obvious, within the meaning of 35 USC 103 in view of the teachings of Marteau d'Autry, Treptow et al and Dunipace.

Art Unit: 1743

2. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marteau d'Autry and Treptow et al as applied to claims 1, 4 and 5 above, and further in view of Holt et al (5,468,453).

Neither Marteau d'Autry nor Treptow et al '686 teach any particular plastic material for the pipette tip.

Holt et al '453 teach a pipette device having a pipette tip portion. The pipette tip is made of polytetrafluoroethylene plastic material (Teflon). See abstract and Col. 2, lines 43-54. The polytetrafluoroethylene is non-wettable (hydrophobic). It would have been obvious to one of ordinary skill in the art to use a teflon material, such as disclosed by Holt et al '453 to make the pipette tip of Marteau d'Autry because Holt et al '453 teach that Teflon inhibits fluid adhesion to the tube, thereby assuring a precise amount of liquid is taken up by the pipette.

Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be obvious in view of Marteau d'Autry and Treptow et al '686 in view of Holt et al '453.

Response to Arguments

3. Applicant's arguments filed July 11, 2003 have been fully considered but they are not persuasive. Applicants argue that Marteau d'Autry fails to teach an extruded plastic pipette tip. The rejection given above points out the obviousness in using plastic materials to form the pipette tip instead of glass material. Treptow et al teach that plastic materials make the pipette tip inexpensive to manufacture and also disposable.

Art Unit: 1743

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 703-305-7360. The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 703-308-4037. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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September 22, 2003


Jill Warden
Supervisory Patent Examiner
Technology Center 1700